

§ 402.2

524(a)(1) or (2) of MAHRA. This part permits renewal notwithstanding part 24 of this title, but subject to section 516 of MAHRA (see § 402.7).

[65 FR 15498, Mar. 22, 2000]

EFFECTIVE DATE NOTE: At 65 FR 15498, Mar. 22, 2000, § 402.1 was revised, effective April 21, 2000. For the convenience of the user, the superseded text is set forth as follows:

§ 402.1 What is the purpose of part 402?

This part sets out the terms and conditions under which HUD will renew project-based section 8 contracts under the authority provided in section 524(a)(1) or (2) of MAHRA. Renewal will also be in accordance with § 401.601 of this chapter for eligible projects without a HUD-approved Restructuring Plan under part 401 of this chapter. This part permits renewal notwithstanding part 24 of this title, but subject to section 516 of MAHRA (see § 402.7).

[63 FR 48953, Sept. 11, 1998; 63 FR 71374, Dec. 28, 1998]

§ 402.2 Definitions.

The definitions in § 401.2 of this chapter apply to this part.

§ 402.3 Contract provisions.

The provisions of chapter VIII of this title will apply only to the extent, if any, provided in the contract. Part 983 of this title will not apply.

§ 402.4 Contract renewals under section 524(a)(1) of MAHRA.

(a) *Initial renewal.* (1) HUD may renew any expiring section 8 project-based assistance contract at initial rents that do not exceed comparable market rents.

(2)(i) If HUD or a Participating Administrative Entity (PAE) determines that renewal of an expiring contract under this section for an eligible project would be sufficient to maintain both adequate debt service coverage on the HUD-insured or HUD-held mortgage and necessary replacement reserves to ensure the long-term physical integrity of the project, taking into account any comments received under § 401.502(c) of this chapter, HUD will renew the contract under this section without developing a Restructuring Plan, subject to § 402.7.

(ii) If HUD or the PAE determines that paragraph (a)(2)(i) of this section does not apply for an eligible project,

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HUD or the PAE may require a Restructuring Plan before the owner's request for renewal of an expiring section 8 contract will be given further consideration. If HUD or the PAE determines that the project's continued operation without a Restructuring Plan is not feasible and the owner does not cooperate in the development of an acceptable Restructuring Plan, HUD will pursue whatever administrative actions it considers necessary.

(b) [Reserved]

[65 FR 15498, Mar. 22, 2000]

EFFECTIVE DATE NOTE: At 65 FR 15498, Mar. 22, 2000, § 402.4 was revised, effective April 21, 2000. For the convenience of the user, the superseded text is set forth as follows:

§ 402.4 Contract renewals under section 524(a)(1) of MAHRA.

HUD may renew any expiring section 8 project-based assistance contract at initial rents that do not exceed comparable market rents. If the project is eligible for a Restructuring Plan under part 401 of this chapter, the owner's request for a renewal will be processed under § 401.601 of this chapter to determine whether a Restructuring Plan is needed. After comparable market rents have been initially established, any future rent adjustments will be determined by using an OCAF as provided in § 401.412 of this chapter, except that rents may be re-determined using a budget-based rent adjustment from time-to-time at the discretion of HUD. OCAF and budget-based adjustments may be positive or negative. The term of the initial and subsequent contract renewals under this section will be determined by the appropriate HUD official.

§ 402.5 Contract renewals under section 524(a)(2) of MAHRA.

(a) *Renewal for exception project at owner's request.* HUD will renew project-based assistance under this section instead of § 402.4 if requested by the owner of a project described in paragraph (b) of this section. The term of the initial and subsequent contract renewals under this section will be determined by the appropriate HUD official.

(b) *Exception projects included.* This section applies to:

(1) A project described in section 524(a)(2)(A) through (D) of MAHRA; and

(2) A project described in section 524(a)(2)(E) of MAHRA.

(c) *Initial rent levels for exception projects.* If the owner of such a project